

# KANSAS STATE UNIVERSITY FOUNDATION

Title	Document Retention and Destruction Policy	Version	4
Committee:	Governance Committee	Approval Date	10/08/2021
Approved By	Board of Directors	Approval Date	10/08/2021

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## Rationale

Records are a vital corporate resource requiring prudent management. Records serve as evidence of the Kansas State University Foundation's (hereinafter the "Foundation") organization, functions, policies, decisions, procedures, operations, or other activities. This policy is established to ensure that the records of the Foundation are retained as required by law and/or for a period deemed to be sufficient given the content and purpose of the record.

## Applies to

This policy applies to all officers, directors and employees and any other persons who have access to records of the Foundation.

## Policy

### A. Reasons for Policy

The information of the Foundation is important to how the Foundation conducts business and manages employees.

Federal and state law require the Foundation to retain certain records, usually for a specific amount of time. The accidental or intentional destruction of these records during their specified retention periods could result in the following consequences for the Foundation and/or its employees:

- Fines and penalties.
- Loss of rights.
- Obstruction of justice charges.
- Inference of spoliation of evidence and spoliation tort claims.
- Contempt of court charges.
- Serious disadvantages in litigation.

The Foundation must retain certain records because they contain information that:

- Serves as the Foundation's corporate memory.
- Have enduring business value (for example, they provide a record of a business transaction, evidence the Foundation's rights or obligations, protect the Foundation's

legal interests or ensure operational continuity).

- Must be kept to satisfy legal, accounting, or other regulatory requirements.

The Foundation prohibits the inappropriate destruction of any records, files, documents, samples, and other forms of information. Therefore, this Document Retention Policy (the “Policy”) is part of a Foundation-wide system for the review, retention, and destruction of records that the Foundation creates or receives in connection with the business it conducts.

## **B. Types of Documents**

This Policy explains the differences among records, disposable information, and confidential information belonging to others.

**Records.** A “Record” is any type of information created, received, or transmitted in the transaction of the Foundation’s business, regardless of physical format. Examples of where the various types of information are located include:

- Appointment books and calendars.
- Audio and video recordings.
- Computer programs.
- Contracts.
- Electronic files.
- Emails.
- Handwritten notes.
- Invoices.
- Letters and other correspondence.
- Magnetic tape.
- Memory in cell phones, tablets, and similar devices.
- Performance reviews.
- Test samples.
- Voicemails.

Therefore, any paper and electronic Records, including any Records of donations made online, that are part of any of the categories listed in the Records Retention Schedule contained in the [Record Retention Schedule and Document Destruction Procedure](#) to this Policy, must be retained for the amount of time indicated in the Records Retention Schedule. A Record must not be retained beyond the period indicated in the Record Retention Schedule, unless a valid business reason (or a litigation hold or other special situation) calls for its continued retention. If a document does not fall within a category on the Record Retention Schedule, it should be destroyed as soon as it no longer serves a useful business purpose. If you are unsure whether to retain a certain Record, contact the Records Management Officer (as defined in part D below).

It is important to note that emails may have a different retention period than a Record that is attached to an email. This policy requires employees to save Records attached to emails outside of an email software program or server (such as Microsoft Outlook or Gmail). If the email is integral to understanding the attached Record, it should be saved along with the Record outside of the email software program. If an email no longer serves a business purpose, it may be deleted from the email software program.

**Disposable Information.** Disposable information consists of data that may be discarded or deleted at the discretion of the user once it has served its temporary useful purpose and/or data that may be safely destroyed because it is not a Record as defined by this Policy.

Examples may include:

- Duplicates of originals.
- Preliminary drafts of letters, memoranda, reports, worksheets, and informal notes that do not represent significant steps or decisions in the preparation of an official Record.
- Books, periodicals, manuals, training binders, and other printed materials obtained from sources outside of the Foundation and retained primarily for reference purposes.
- Spam and junk mail.

**Confidential Information Belonging to Others.** Any confidential information that an employee may have obtained from a source outside of the Foundation, such as a previous employer, must not, so long as such information remains confidential, be disclosed to or used by the Foundation. Unsolicited confidential information submitted to the Foundation should be refused, returned to the sender where possible, and destroyed or deleted.

Additionally, agreements with third parties, such as confidentiality and non-disclosure agreements, may require specific rules for destruction or retention of a third-party's information. It is important that these contractual obligations are followed, notwithstanding this Policy.

## C. **Mandatory Compliance**

**Responsibility of All Employees.** The Foundation strives to comply with the laws, rules, and regulations that govern it and with recognized compliance practices. All Foundation employees must comply with this Policy, the Records Retention Schedule and any litigation hold communications.

Failure to do so may subject the Foundation, its employees, and contract staff to serious civil and/or criminal liability. An employee's failure to comply with this Policy may result in disciplinary sanctions, including suspension or termination.

**Reporting Policy Violations.** The Foundation is committed to enforcing this Policy as it applies to all forms of Records. The effectiveness of the Foundation's efforts, however, depends largely on employees. If you feel that you or someone else may have violated this Policy, you should report the incident immediately to your supervisor. If you are not comfortable bringing the matter up with your immediate supervisor, or do not believe the supervisor has dealt with the matter properly, you should raise the matter with the Records Management Officer. If employees do not report inappropriate conduct, the Foundation may not become aware of a possible violation of this Policy and may not be able to take appropriate corrective action. No one will be subject to and the Foundation prohibits, any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of

inappropriate conduct of any kind relating to this Policy or cooperating in related investigations.

#### **D. Records Management Officer**

The Records Management Officer is responsible for identifying the documents that the Foundation must or should retain, and determining, in collaboration with outside legal counsel, the proper period of retention. He or she also arranges for the proper storage and retrieval of Records, coordinating with outside vendors where appropriate. Additionally, the Records Management Officer ensures the destruction of Records whose retention period has expired.

The Foundation has designated Christy Scott as the Records Management Officer. The Records Management Officer's contact information is: [christys@ksufoundation.org](mailto:christys@ksufoundation.org) or 785-775-2103. The Records Management Officer is responsible for:

- Administering the document management program and helping department heads implement it and related best practices.
- Planning, developing, and prescribing document disposal policies, systems, standards, and procedures.
- Writing straightforward document management procedures to instruct employees on how to comply with this Policy.
- Monitoring departmental compliance so that employees know how to follow the document management procedures.
- Ensuring that senior management is aware of their department's document management responsibilities.
- Developing and implementing measures to ensure that the COO knows what information the Foundation has and where it is stored, that only authorized users have access to the information, and that the Foundation keeps only the information it needs (or is required to maintain by this Policy), thereby efficiently using space.
- Establishing standards for filing and storage equipment and recordkeeping supplies.
- In cooperation with department heads, identifying essential Records and establishing a disaster plan for each office and department to ensure maximum availability of the Foundation's Records in order to reestablish operations quickly and with minimal interruption and expense.
- Developing procedures to ensure the permanent preservation of the Foundation's historically valuable Records.
- Providing document management advice and assistance to all departments.
- Determining the practicability of and, if appropriate, establishing a uniform filing system and control system.
- Periodically conferring with outside counsel to review the Records retention schedules and administrative rules issued by the Federal Government and the State

of Kansas to determine if the Foundation's document management program and its Records Retention Schedule follows applicable state and federal regulations.

- Distributing to the various department heads information concerning state laws and administrative rules relating to corporate Records.
- Explaining to employees their duties relating to the document management program.
- Monitoring the maintenance, preservation, microfilming, computer disk storage, cloud storage, destruction, or other disposition of the Foundation's Records is carried out in accordance with this Policy, the procedures of the document management program and the requirements of federal and state law.
- Planning the timetable for the annual Records destruction exercise and the annual Records audit, including setting deadlines for responses from departmental staff.
- Evaluating the overall effectiveness of the document management program.
- Reporting annually to the COO on the implementation of the document management program in each of the Foundation's departments.
- Bringing to the attention of the COO any noncompliance by department heads or other employees with this Policy and the Foundation's document management program.

#### **E. How to Store and Destroy Records**

**Storage.** The Foundation's Records must be stored in a safe, secure, and accessible manner. Electronic Records should be stored as instructed by the IT Department.

**Destruction.** The Foundation's Records Management Officer is responsible for the continuing process of identifying the Records that have met their required retention period and supervising their destruction. The destruction of physical confidential, financial, and personnel-related Records must be conducted by shredding if possible. Non-confidential Records may be destroyed by recycling. The destruction of electronic Records must be coordinated with the IT Department.

The destruction of Records must stop immediately upon notification that a litigation hold is to begin because the Foundation may be involved in a lawsuit or an official investigation (see next paragraph). Destruction may begin again once the COO lifts the relevant litigation hold.

#### **Litigation Holds and Other Special Situations**

The Foundation requires all employees to comply fully with its published records retention schedule and procedures as provided in this Policy. All employees should note the following general exception to any stated destruction schedule: If you believe, or a manager or outside legal counsel informs you, that the Foundation Records are relevant to current litigation, potential litigation (that is, a dispute that could result in litigation), government investigation, audit, or other event, you must preserve and not delete, dispose, destroy, or change those Records, including emails, until outside legal counsel determines those Records are no longer needed. This exception is referred to as a litigation hold or legal hold, and it replaces

any previously or subsequently established destruction schedule for those Records. If you believe this exception may apply, or have any questions regarding whether it may possibly apply, please contact the COO.

In addition, you may be asked to suspend any routine document disposal procedures in connection with certain other types of events, such as the replacement of the Foundation's information technology systems.

**F. Audits and Employee Questions**

**Internal Review and Policy Audits**

The COO of the Foundation and the Records Management Officer will periodically review this Policy and its procedures with outside legal counsel and/or the Foundation’s certified public accountant to ensure the Foundation is in full compliance with relevant new or amended regulations. Additionally, the Foundation will regularly audit employee files and computer hard drives and other relevant forms of storage to ensure compliance with this Policy.

**Questions about the Policy**

Any questions about this Policy should be referred to the Records Management Officer, who oversees administering, enforcing, and updating this Policy.

**Definitions**

Term	Definition
Records	<p>“Records” includes all forms of communications or information relating to the Foundation and its business which is recorded in any medium including, but not limited to, handwritten or typed form, e-mail, tapes, film, microfilm, photocopy, microfiche, optical disk, computer disk and electronic or cloud-based storage. Records shall include all incoming and outgoing records as well as drafts, notes, calendars and personal records relating to Foundation business. Foundation records include but are not limited to minutes, correspondence, memoranda, published materials such as reports and newsletters, moving images and photographs, sound recordings, charts, drawings and maps, annotated copies or books, and electronic files and data processing output in any media, including email.</p> <p>Records include financial information such as invoices, journals, ledgers, purchase orders, annual reports, budgets and financial statements, trust information, grant information, gifts and donor agreements, spreadsheets, other information pertaining to fiscal matters, memoranda, correspondence, planning documents and receipts, e-mail messages to the extent they authorize or provide substantiating information, or other documentation of individual entries made in the transaction of its business.</p>
Record	This is a control document that describes the Foundation's corporate records and

<b>Retention Schedule</b>	indicates the length of time such information should be retained prior to final disposition. This document serves as the legal authorization for the disposal of Foundation records.
<b>Retention Period</b>	The retention period means a period during which records must be held before disposed. The retention period is usually stated in terms of years, but sometimes is contingent upon the occurrence of an event; e.g. employee termination and contract expiration.
<b>Records Management</b>	Records management is the systematic control of information from creation and capture, through to maintenance and use and ultimate transfer to archives or destruction. A records management program is concerned with achieving economy and efficiency in the creation, maintenance, use and disposal of the records of the Foundation and in making the information they contain available in support of the business of the institution.
<b>Disposition</b>	Disposition is the action taken in regard to the disposal of inactive records, which can involve physical destruction by means of burning, shredding or recycling; transfer to archival storage for selective or full retention; or special disposal through sale, grant or other formal act of removing from the custody of the Foundation.
<b>Electronic records</b>	Electronic records include any unit of information in digital form
<b>Non-electronic records</b>	Non-electronic records include any unit of information not in digital form (e.g. paper, microfilm, etc.).

## Procedures

[Record Retention Schedule and Document Destruction Procedure](#)

## References & Links

## Contact

Department Name or Person	Phone Number
Sr VP of Operations and Finance/COO/CFO	785-775-2010
Sr. VP of Investments/CIO	785-775-2128
VP of Culture and Engagement	785-775-2011
AVP of Strategic Communications	785-775-2016
AVP of Information, Technology and Infrastructure	785-775-2236
AVP of Accounting/Controller	785-775-2102
Sr. Director of Compliance Services	785-775-2103